

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Wan, Howard S.K.; Lin, Eric  
 Application No.: 08/853,035 Group No.: 2758  
 Filed: 5/02/1997 Examiner: R. Harrell  
 For: APPARATUS AND METHOD FOR NETWORK ACCESS USING A SET TOP BOX AND  
 TELEVISION

Assistant Commissioner for Patents  
 Washington, D.C. 20231  
 Office of the Assistant Commissioner for Patents

## PETITION FOR WITHDRAWAL OF ABANDONMENT

## PETITION

1. Applicant petitions that the abandonment set forth in the notice mailed by the Office on May 17, 1999 be withdrawn.

## SUBMISSION

2. Submitted herewith with respect to the above-captioned application is:

- A copy of a Notice to File Missing Parts of Application ("Notice of Missing Parts") for the above-captioned application having a mailing date of January 27, 1998 (attached hereto as Exhibit A).
- A copy of a Submission of Missing Parts of Application ("Submission") for the above-captioned application having a Rule 8a certificate of mailing date of March 25, 1998 and indicating payment of the fee for the Notice of Missing Parts via a deposit account (attached hereto as Exhibit B). Which

## CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Date: 6/2/99

## FACSIMILE

transmitted by facsimile to the Patent and Trademark Office.

Signature

L W B Olson  
 (type or print name of person certifying)

- A copy of a Submission of Missing Parts of Application ("Submission") for the above-captioned application having a Rule 8a certificate of mailing date of March 25, 1998 and indicating payment of the fee for the Notice of Missing Parts via a deposit account (attached hereto as Exhibit B). Which Submission further included:

- A copy of Declaration and Power of Attorney papers collectively signed by all named inventors in and correctly identifying the above-captioned application by application serial no. and filing date (attached hereto as Exhibit C).

- A copy of Form PTO 1533, namely, a copy of the Notice of Missing Parts (see, Exhibit A).

- A copy of a return post card date stamped March 27, 1998 by the Patent and Trademark Office ("USPTO") indicating receipt of Exhibits A, B and C in the above-captioned application. (Attached hereto as Exhibit D.)

3. Applicants respectfully request that abandonment of the above-captioned application by the USPTO be withdrawn in view of attached Exhibits A through D, inclusive, which clearly indicate that all required items were filed and all fees were paid in a timely manner in the above-captioned application in response to the Notice of Missing Parts. Accordingly, as this abandonment occurred without fault of Applicants, Applicants respectfully request reinstatement of the above-captioned application as though no abandonment had ever occurred.

As it appears that the previously submitted papers may no longer be readily available, a copy of a previously submitted Information Disclosure Statement is enclosed herewith.

#### **PETITION FEE**

4. The petition fee (37 C.F.R. 1.17(h)) is paid as follows:

Charge Account No. 07-2339 the sum of \$130. ✓  
A duplicate of this paper is attached.

The Commissioner is hereby authorized to charge any additional fees under 37 CFR 1.16 and 1.17 which may be required by the papers submitted herewith or credit any overpayment to Account No. 07-2339.

#### **REQUEST FOR REFUND OF PETITION FEE**

5. As no defect exists in applicant's previous submission, a refund of the petition fee submitted herewith is respectfully requested.

#### **REQUEST FOR WITHDRAWAL OF ABANDONMENT**

6. Acknowledgment of the active status of this application is respectfully requested.

#### **ALTERNATE HANDLING**

7. Should the Office of Petitions determine that this matter should be handled as a Request for Reinstatement, rather than as a Petition for Withdrawal of Abandonment, Applicants respectfully request that this Petition and associated documentation be forwarded to the Examiner assigned the application for disposition.



**SIGNATURE OF PRACTITIONER**

Tel. No.: (781) 466-4013

Customer No.: 021602

W. Eric Webostad,  
Reg. No. 35,406  
GTE Service Corporation  
600 Hidden Ridge HQE03G13  
Irving, TX 75038

**RECEIVED**

FEB 2 1998



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

**PATENT DEPT.**

FILING/RECEIPT DATE

FIRST NAMED APPLICANT

ATTORNEY DOCKET NO./TITLE

08/853, 035 05/02/97 LIN

E 96-8-101

0242/0127

LEONARD CHARLES SUCHYTA  
GTE SERVICE CORPORATION  
40 SYLVAN ROAD MS31  
WALTHAM MA 02254

HARRELL, R

2784  
DATE MAILED:

01/27/98

**NOTICE TO FILE MISSING PARTS OF APPLICATION*****Filing Date Granted***

An Application Number and Filing Date have been assigned to this application. However, the items indicated below are missing. The required items and fees identified below must be timely submitted ALONG WITH THE PAYMENT OF A SURCHARGE for items 1 and 3-6 only of \$ 130 for a  large entity  small entity in compliance with 37 CFR 1.27. The surcharge is set forth in 37 CFR 1.16(e). Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required above to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

*If all required items on this form are filed within the period set above, the total amount owed by applicant as a  
 large entity  small entity (verified statement filed), is \$ 130.*

1. The statutory basic filing fee is:

- missing.
- insufficient.

*Applicant must submit \$ \_\_\_\_\_ to complete the basic filing fee and/or file a verified small entity statement claiming such status (37 CFR 1.27).*

2. Additional claim fees of \$ \_\_\_\_\_, including any multiple dependent claim fees, are required.  
*Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.*

3. The oath or declaration:

- is missing.
- does not cover the newly submitted items.
- does not identify the application to which it applies.
- does not include the city and state or foreign country of applicant's residence.

*An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.*

4. The signature(s) to the oath or declaration is/are:

- missing.
- by a person other than inventor or person qualified under 37 CFR 1.42, 1.43, or 1.47.

*A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.*

5. The signature of the following joint inventor(s) is missing from the oath or declaration:

*An oath or declaration listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.*

6. A \$ \_\_\_\_\_ processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

7. Your filing receipt was mailed in error because your check was returned without payment.

8. The application does not comply with the Sequence Rules.

*See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."*

9. OTHER:

Direct the response and any questions about this notice to "Attention: Box Missing Parts."

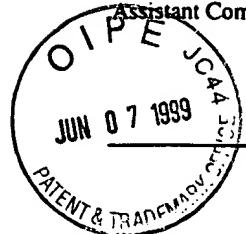
*A copy of this notice **MUST** be returned with the response.*

*M. Day UNIT 4*  
 Customer Service Center  
 United States Patent and Trademark Office  
 7000 Wisconsin Avenue, Washington, D.C. 20231-3214  
 (703) 305-9200

**EXHIBIT B**

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, DC 20231.



Mary Anza

3/25/98

Date

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re. Application Of : Howard S.K. Wan et al.  
Serial No. : 08/853,035  
Filed : 5/2/97  
Title : APPARATUS AND METHODS FOR NETWORK ACCESS  
USING A SET TOP BOX AND TELEVISION

## SUBMISSION OF MISSING PARTS OF APPLICATION

ASSISTANT COMMISSIONER  
FOR PATENTS  
WASHINGTON, DC 20231

Dear Sir:

The following papers are submitted in response to Form PTO-1533, Notice to File Missing Parts of Application - Filing Date Granted. Acceptance and entry of these papers is respectfully requested. The Assistant Commissioner for Patents is authorized to charge my Deposit Account 07-2339 in the amount of \$130.00. The Assistant Commissioner for Patents is also authorized to charge any additional fees or credit any overpayment resulting from the papers submitted herewith to Deposit Account 07-2339. This letter is submitted in duplicate.

1. Declaration and Power of Attorney signed by Howard S.K. Wan and Eric Lin, as required in the above-entitled application by Form PTO-1533.

Filing of these papers is respectfully requested.

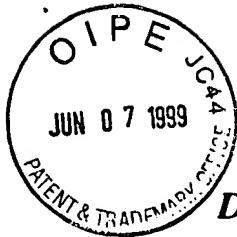
Respectfully submitted,



Floyd E. Anderson  
Attorney for Applicant  
Reg. No. 33,825

GTE Service Corporation  
40 Sylvan Road  
Waltham, MA 02254  
Telephone No. 781-466-4016  
Facsimile: 781-466-4021  
Enclosure

**EXHIBIT C**



*Docket No. 96-8-101*

## ***Declaration and Power of Attorney for Patent Application***

**As a below named inventor, I hereby declare that:**

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

# APPARATUS AND METHODS FOR NETWORK ACCESS USING A SET TOP BOX AND TELEVISION

the specification of which (check one) [ ] is attached hereto [ x ] was filed on **May 2, 1997**, as Application Ser. No. **08/853,035** and was amended on \_\_\_\_\_ (if applicable). I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56.

I hereby claim the foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign/PCT Application(s) and any priority claims under 35 U.S.C. §119: Priority  
Claimed [ ] [ ]  
\_\_\_\_\_  
(Number) (Country, if PCT so indicate) (DD/MM/YY Filed) Yes No

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

---

(Application Number)

October 8, 1996  
(Filing Date)

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose material information as defined in

Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

---

(Application Serial No.) (Filing Date) (Status-patented, pending, abandoned)

PCT Applications designating the United States:

---

(PCT Appln. No.) (U.S. Ser. No.) (PCT Filing Date) (Status-patented, pending, abandoned)

I hereby appoint the following attorney(s) and /or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

**Leonard Charles Suchyta, Reg. No. 25,707**  
and Floyd E. Anderson, Reg. No. 33,825

Address all telephone calls to **Leonard Charles Suchyta** at telephone no. (617) 466-4016.  
Address all correspondence to

**Leonard Charles Suchyta**  
**GTE Service Corporation**  
**40 Sylvan Road, MS31**  
**Waltham, MA 02254**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

---

Inventor's Signature

Full name of sole or first inventor

Citizenship

Residence

Post Office Address

---

*Howard S. Wan*

Inventor's Signature

Full name of second or joint inventor

Citizenship

Residence

Post Office Address

---

Date

Eric Lin

United States of America

227 Fords Road, Westwood, MA 02090

227 Fords Road, Westwood, MA 02090

---

*2/26/1998*

Date

Howard S. K. Wan

United States of America

552 Main Street, Suite #4, Waltham, MA 02154 HW

552 Main Street, Suite #4, Waltham, MA 02154 HW

32 Lawrence Lane, Lexington, MA 02173

32 Lawrence Lane, Lexington, MA 02173



Docket No. 96-8-101

### ***Declaration and Power of Attorney for Patent Application***

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated blow next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

### **APPARATUS AND METHODS FOR NETWORK ACCESS USING A SET TOP BOX AND TELEVISION**

the specification of which (check one) [ ] is attached hereto [ x ] was filed on **May 2, 1997**, as Application Ser. No. **08/853,035** and was amended on \_\_\_\_\_ (if applicable). I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations. §1.56.

I hereby claim the foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign/PCT Application(s) and any priority claims under 35 U.S.C. §119: Priority  
Claimed  
\_\_\_\_\_  
(Number) (Country, if PCT so indicate) (DD/MM/YY Filed) Yes No

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

\_\_\_\_\_  
(Application Number) October 8, 1996  
\_\_\_\_\_  
(Filing Date)

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose material information as defined in

Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.) (Filing Date) (Status-patented, pending, abandoned)

PCT Applications designating the United States:

(PCT Appln. No.) (U.S. Ser. No.) (PCT Filing Date) (Status-patented, pending, abandoned)

I hereby appoint the following attorney(s) and /or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

**Leonard Charles Suchyta, Reg. No. 25,707**

and Floyd E. Anderson, Reg. No. 33,825

Address all telephone calls to **Leonard Charles Suchyta** at telephone no. (617) 466-4016.  
Address all correspondence to

**Leonard Charles Suchyta  
GTE Service Corporation  
40 Sylvan Road, MS31  
Waltham, MA 02254**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Eric Lin

Inventor's Signature

3/7/1998

Date

Full name of sole or first inventor

**Eric Lin**

Citizenship

**United States of America**

Residence

**227 Fords Road, Westwood, MA 02090**

Post Office Address

**227 Fords Road, Westwood, MA 02090**

Howard S. K. Wan

Inventor's Signature

*Forbes*

2/26/1998

Date

Full name of second or joint inventor

**Howard S. K. Wan**

Citizenship

**United States of America**

Residence

**552 Main Street, Suite #4, Waltham, MA 02154 HW**

Post Office Address

**552 Main Street, Suite #4, Waltham, MA 02154 HW**

**32 Lawrence Lane, Lexington, MA 02173**

**32 Lawrence Lane, Lexington, MA 02173**

**EXHIBIT D**

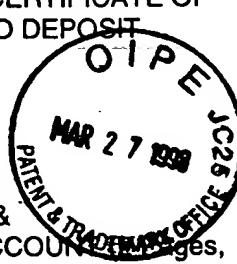


RECEIVED IN THE U.S. PATENT & TRADEMARK OFFICE

In re. Application of Howard S.K. Wan et al., SN 08/853,035 filed 5/2/97 for  
APPARATUS AND METHODS FOR NETWORK ACCESS USING A SET  
TOP BOX AND TELEVISION consisting of:  
TRANSMITTAL LETTER FOR MISSING PARTS WITH CERTIFICATE OF  
MAILING AND AUTHORIZATION TO CHARGE FEES TO DEPOSIT  
ACCOUNT (2 Pages, In Duplicate);  
COPY OF FORM PTO 1533 (1 Page);  
DECLARATION & POWER OF ATTORNEY (4 Pages);  
RECORDATION COVER SHEET (1 Page);  
ASSIGNMENT (2 Pages);  
IDS TRANSMITTAL WITH CERTIFICATE OF MAILING &  
AUTHORIZATION TO CHARGE FEES TO DEPOSIT ACCOUNT (2 Pages,  
In Duplicate);  
FORM PTO 1449 (1 Page);  
2 REFERENCES

96-8-101 MAILED: 3/25/98

FEA:ma



PATENT DEPT.

APR 6 1998

WALTHAM, MA 02254

40 SYLVAN ROAD

GTE SERVICE CORPORATION

RECEIVED

FLOYD E. ANDERSON





PATENT  
Attorney Docket No. 96-8-101

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that this Information Disclosure Statement and the documents referred to as enclosed therein are being deposited with the United States Postal Service on this date, 3/25/98, with sufficient postage as first class mail addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Mary Anza  
(typed or printed name of person mailing paper)

Mary Anza  
(Signature of person mailing paper)

In re Application of: )  
Howard S.K. Wan et al. )  
Serial No.: 08/853,035 ) Group Art Unit: 2784  
Filed: May 2, 1997 ) Examiner: R. Harrell  
For: APPARATUS AND METHODS )  
FOR NETWORK ACCESS )  
USING A SET TOP BOX AND )  
TELEVISION )

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. Copies of the listed documents are attached.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines

that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

This Information Disclosure Statement is being filed before receipt of a first Office Action on the merits for the above-referenced application. Should a first action on the merits have been issued on the same day or before this Information Disclosure Statement is filed, please accept this Information Disclosure Statement under Rule 97(c) and charge the requisite Rule 17(p) fee to our Deposit Account No. 07-2339 and proceed to consider this Information Disclosure Statement.

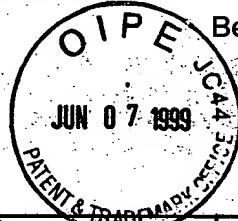
Respectfully submitted,

By: Floyd E. Anderson  
Floyd E. Anderson  
Reg. No. 33,825

Date: March 24, 1998

GTE Service Corporation  
40 Sylvan Road  
Waltham, MA 02254  
781/466-4016

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.



Best Available Copy



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO./TITLE
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08/853, 035 05/02/97 LIN

MAY 24 1999 E 96-8-101

PATENT DEPT.

0212/0517

HARRELL, R

LEONARD CHARLES SUCHYTA  
GTE SERVICE CORPORATION  
40 SYLVAN ROAD MS31  
WALTHAM MA 02254

DATE MAILED: 0000

PTD mistake  
Solicited

**NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) or (g)**  
(*Filing Date Granted*)

05/17/99

The above identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 1-27-98.

No reply was received.  
 The reply received on \_\_\_\_\_ was untimely.  
 The reply received on \_\_\_\_\_ was improper. The reply did not include:  
  
 1. The surcharge under 37 CFR 1.16(e) required for filing the basic filing fee or oath or declaration on a date later than the filing date of a nonprovisional application.  
 2. The surcharge under 37 CFR 1.16(l) required for filing the basic filing fee or cover sheet on a date later than the filing date of a provisional application.  
 3. The full amount of the basic filing fee under 37 CFR 1.16(a) (1) (g) (k).  
(Note: A nonprovisional application may not be relied on for benefits under 35 U.S.C. 120 and 37 CFR 1.78 unless the processing and retention fee set forth in 37 CFR 1.21(l) is paid within the one year period set forth in 37 CFR 1.53(f). A provisional application may not be relied on for benefits under 35 U.S.C. 119(e) and 37 CFR 1.78 unless the basic filing fee is paid).  
 4. The oath or declaration of all the inventors required under 37 CFR 1.63 for this nonprovisional application.  
 The letter of Express Abandonment filed on \_\_\_\_\_ is acknowledged; however, the application is abandoned for failure to timely or properly reply to the Notice as indicated above.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of UNAVOIDABLE DELAY must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of UNINTENTIONAL DELAY must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(c).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.